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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/656,563      | 09/07/2000  | Anders Leandersson   | 9285-S              | 2016             |

826 7590 10/22/2002

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|                 |              |
|-----------------|--------------|
| EXAMINER        |              |
| FORTUNA, JOSE A |              |
| ART UNIT        | PAPER NUMBER |
| 1731            | 3            |

DATE MAILED: 10/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/656,563

Applicant(s)  
09/656,563

Examiner  
José A. Fortuna

Art Unit  
1731



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 26, 2000
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 U.S.C. § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 18-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaasalainen et al., US Patent No. 5,792,320..

Regarding claims 1, Kaasalainen et al. teach a method and device for making a paper or paperboard including a forming section a press section and a drying section, see abstract and figures. Kaasalainen et al. also disclose the making of a multi-ply product which the different layers are separate formed then joined and transferred to a press section using a smooth belt and passed through a nip in along with the belt, see figures 6 and 12. Regarding Claims 18-23, the device shown by the reference, Kaasalainen et al., have all the structural limitations than the claimed device, i.e., multi-ply former with a press section in which the web is transferred to by a smooth belt which is conveyed through the last nip with the top layer of the web engaging the smooth surface, see figures 6 and 12 and column 10, lines 36-54 and column 12, lines 44-64. Even though Kaasalainen et al. does not explicitly teach the operations conditions of the press(es), these can be inherently operated at the same conditions. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not

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differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

***Claim Rejections - 35 U.S.C. § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Column*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 2-17 and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaasalainen et al.

Kaasalainen et al. has been previously discussed, see above. Kaasalainen et al. fail to teach the operations conditions of the press, i.e. lineal pressure at the nip, nor the use of the specific fibers as claimed. However, the operation of the press at the lineal pressure as claimed and/or the

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use of bleached fibers or fibers at a particular layer, would have been obvious to one of ordinary skill in the art since it amounts for just an optimization process, i.e., it has been held that optimizing a result effective variable is with the levels of ordinary skill in the art absent a showing of unexpected results. Note that the use of bleached fibers and using only one type of fiber for each of the layers/plies is conventional in the art, evidenced supplied in the cited references.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure in the art of "Multi-Ply webs."


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to José Fortuna, whose telephone number is (703)305-7498. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin, can be reached on (703)308-1164. The fax number for this group is (703)305-7115.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-0661.

When filing a FAX in group 1730, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

José A. Fortuna  
October 18, 2002

  
JOSE FORTUNA  
PRIMARY EXAMINER  
ART UNIT 1731